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UNCLAS SECTION 01 OF 02 GUATEMALA 001541

SIPDIS

SENSITIVE

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CA/VO and G/TIP  
DEPARTMENT OF LABOR FOR ILAB: ROBERT WHOLEY  
USTR FOR CHRIS WILSON  
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TAGS: [ELAB](#) [KCRM](#) [KWMN](#) [ETRD](#) [CVIS](#) [GT](#)

SUBJECT: GUATEMALA LABOR AND TIP UPDATE #4

11. The following is an update of significant recent developments in the labor sector. Topics include:

-- Bilateral Labor Group Convoked for Early July (para 2)

-- Union Leader Arrested in Social Security Scandal (3)

-- Choi Shin/Cimatexiles in the GOG's Crosshairs (4)

-- American Data Processing "Maquila" Conflict Unresolved (5)

-- GOG Wants to Facilitate H2B Program (6)

-- Penal Code Reform Stiffens Penalties for Trafficking in Persons (7)

Bilateral Labor Group Convoked for Early July

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12. (SBU) On June 11 LabAtt requested MFA convoke another meeting of the GOG's Labor Working Group for the first week of July. Sara Solis, MFA Director for Bilateral Affairs, agreed to do so, and said the inter-ministerial GOG Working Group had met recently and would soon be formally constituted by government decree. The Embassy hopes to use this meeting to maintain momentum on labor issues raised in the first meeting (prosecution of violent crimes against union leaders, need to streamline the labor justice system, and the need to reinstate workers illegally fired for unionization activity) on May 13 with participation from USTR, USDOL and Department officials. The Embassy will represent the USG in this meeting, and would welcome Department's guidance on the status of GSP petitions against Guatemala.

Union Leader Arrested

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13. (SBU) Rigoberto Duenas, Adjunct Secretary General of the Central General Union of Guatemalan Workers (CGTG), was arrested on June 8 for his participation as a member of the Board of Directors of the National Social Security Institute (IGSS) in a major financial scandal involving the misuse of public funds by that institution. Duenas was the first member of the board arrested, and unions have protested his innocence and accused the government of seeking a "scapegoat" for the scandal. The scandal involved a housing construction scheme using IGSS funds, which was authorized by the board but implemented fraudulently by IGSS managers (Guatemala 1388 and 1465). The Ambassador expressed concern over the arrest to Attorney General De Leon on June 11. LabAtt and Pol Section Intern met with the CGTG executive board and Mrs. Duenas on June 12. The union requested Embassy assistance to guarantee the safety of Duenas in custody. LabAtt requested such assistance from the Attorney General's Private Secretary on June 12 and was assured that the Director of Prisons had already beefed up the security in the hospital of the Preventive Detention Center, where Duenas and one other IGSS board member is being held.  
Choi Shin/Cimatexiles in the Crosshairs

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14. (U) The GOG has given the management of the Choi Shin/Cimatexiles maquila plants until June 27 to respond to pending labor rights complaints by workers or lose its permission to export from Guatemala. NGO sources report that Minister of Labor Victor Moreira (currently in Geneva for ILO meetings) intends to compel Choi Shin/Cimatexiles management to engage in

collective bargaining with the only existing unions in the maquila sector. Those unions were established after anti-union violence provoked GOG intervention in July 2001. Press reports about the GOG's action against these factories provoked concern among union members about possible new violence from non-union workers. LabAtt called Choi Shin management on June 3 to express concern about possible violence and was assured by management that the plant was calm. The Embassy and concerned U.S. NGOs are monitoring this situation closely, and have encouraged management to continue dialogue with the unions.

American Data Processing "Maquila" Conflict Unresolved

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15. (SBU) The U.S. data processing subsidiary ACS-BPS of Guatemala has entered into negotiations with seven employees who prefer to resign than to accept new data processing tasks under an internal reorganization. The seven have filed labor complaints with the labor courts and want management to provide a severance package including lawyers fees not required under labor law.

GOG Wants to Facilitate H2B Program

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16. (U) ConGen, NIV Chief and LabAtt met with Vice Minister of Labor Sandra Mendez de Garrido June 11 to discuss the Ministry's interest in facilitating the flow of H2B temporary work visa applicants. NIV Chief provided feedback from U.S. employers concerned by the registry and deposit requirements of the Guatemalan Labor Code (article 34), which date to the early 1950's and, if implemented, would probably drive U.S. recruiters elsewhere. The Vice Minister said that her intent is not to enforce these parts of the Code, but to reform them, if necessary, to protect and expand the flow of H2B workers. The Ministry would like to contact U.S. employers to offer its employment service as an alternative to Guatemalan recruiters, many of whom are corrupt. ConGen asked the Vice Minister to provide an email address to which the Embassy can refer interested U.S. employers, and suggested the Vice Minister consider visiting the U.S. to witness working conditions of Guatemalan workers and meet with USDOL counterparts. We are exploring possible USG support for such a visit under the Voluntary Visitor Program.

Reforms Would Stiffen Penalties for TIP

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17. (U) On June 10 The Congressional Commissions on Women and Legislation approved reforms to the Criminal Code which would increase the penalty for trafficking in persons from two to five years in prison. The reforms would also increase the fine penalties for pimping from two to ten thousand Quetzales (approx. \$1,282).

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